



NOTICE OF TEXT
[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
 Notice without a scheduled hearing
 Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: Alcoholic Beverage Control Commission

2. Link to agency website pursuant to G.S. 150B-19.1(c): www.abc.nc.gov

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

READOPTION with substantive changes:

READOPTION without substantive changes:

AMENDMENT: 14B NCAC 15A .1603, .1604 and .1701

REPEAL:

4. Proposed effective date: March 1, 2019

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: December 12, 2018

Public Hearing time: 10:00 a.m.

Public Hearing Location: ABC Commission Hearing Room, 400 East Tryon Road, Raleigh, NC 27610

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s): To adopt a permanent rule to eliminate the requirement that a distiller representative be present for the ABC Commission, a privately owned bonded warehouse, or a local ABC board to destroy distressed liquor, as directed by the General Assembly in S.L. 2018-100, Sec. 2.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Walker Reagan
Address: 400 East Tryon Road
Raleigh, NC 27610

Phone (optional): 919-779-8367
Fax (optional): 919-661-6165
E-Mail (optional): walker.reagan@abc.nc.gov

10. Comment Period Ends: December 14, 2018

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Walker Reagan

Address: 400 East Tryon Road, Raleigh, NC 27610

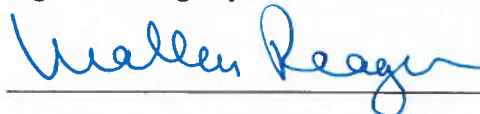
Phone: 919-779-8367
E-Mail: walker.reagan@abc.nc.gov

Agency contact, if any:

Phone:
E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: September 12, 2018

14. Signature of Agency Head* or Rule-making Coordinator:



*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Walker Reagan

Title: Rule-making Coordinator

1 14B NCAC 15A .1603 is proposed for amendment as follows:

2
3 **14B NCAC 15A .1603 REQUIREMENTS FOR STORAGE**

4 All privately-owned bonded warehouses holding permits for the storage of spirituous liquors are required to:

- 5 (1) store all liquor ~~separately~~separate and apart from other merchandise;
- 6 (2) store all military codes ~~separately~~separate and apart from state codes;
- 7 (3) store all liquor of the same code together and spaced evenly for inventory purposes;
- 8 (4) submit to the Commission monthly reports of all spirituous liquors received and delivered so that a
9 perpetual inventory may be kept at the Commission, which report must match the inventory at the
10 bonded warehouse at all times and upon inspections for inventory purposes;
- 11 (5) take at their expense, and submit to the Commission, semi-annual inventories of all spirituous
12 liquors being held in the bonded warehouse, which inventories may be observed by representatives
13 of the Commission or the State Auditor's Office;
- 14 (6) return all distressed liquor received to the distiller within 30 days of its ~~receipt, or destroy in the~~
15 ~~presence of a distiller representative;~~receipt; or
- 16 (7) ~~destroy, in the presence of the distiller representative for the brand involved,~~destroy all liquor that
17 becomes distressed after it is ~~received.~~received, after notifying the distiller and obtaining in writing
18 the distiller's approval to destroy the distressed liquor. The distiller, or a representative of the
19 distiller, shall be given an opportunity to:
- 20 (a) be present in person or by video conference at the destruction, or
- 21 (b) request proof of destruction by photographs or video recordings showing the distressed
22 liquor before and after the destruction.

23 The distiller shall be provided with a written or electronic copy of the Unsalable Merchandise Report
24 for the distressed liquor destroyed. The report shall contain the name and title of the distiller, or
25 representative of the distiller, who provided written approval to destroy the distressed liquor and the
26 date the approval to destroy was given. A written or electronic copy of the report shall be sent
27 quarterly to the Commission.

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29 *History Note: Authority G.S. 18B-100; 18B-204; 18B-207; S.L. 2018-100, Sec. 2;*
30 *Eff. January 1, 1982;*
31 *Amended Eff. May 1, 1984;*
32 *Transferred and Recodified from 04 NCAC 02R .1603 Eff. August 1, 2015;*
33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
34 *2015.*
35
36

1 14B NCAC 15A .1604 is proposed for amendment as follows:
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3 **14B NCAC 15A .1604 PROHIBITED PRACTICES**

4 (a) The removal of any spirituous liquors except as provided for in these Rules to any place except the ~~state~~State ABC
5 warehouse, military posts, points outside the State of North Carolina or the shipping distillery is prohibited.

6 (b) No liquor, distressed or otherwise, shall be given to any distiller representative or employee of the warehouse but
7 shall be destroyed in accordance with Rule .1603 of this Section and recorded in the Unsalable Merchandise ~~Report~~
8 in the presence of a distiller representative.Report.

9

10 *History Note: Authority G.S. 18B-100; 18B-204; 18B-207; S.L. 2018-100, Sec. 2;*

11 *Eff. January 1, 1982;*

12 *Amended Eff. May 1, 1984;*

13 *Transferred and Recodified from 04 NCAC 02R .1604 Eff. August 1, 2015;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
15 *2015.*

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1 14B NCAC 15A .1701 is proposed for amendment as follows:
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3 **14B NCAC 15A .1701 REMOVAL OF BEVERAGES FROM ABC STORES**

4 (a) Spirituous liquor, either distressed or otherwise, shall not leave the custody of a local board after receipt unless:

- 5 (1) The spirituous liquor is sold at retail;
6 (2) The liquor is returned to the ~~state~~State ABC warehouse; or
7 (3) The liquor is purchased, exchanged, or otherwise obtained by another local board as provided by
8 14B NCAC 15A .1301(e).

9 Any spirituous liquor otherwise leaving the local board is nontaxpaid spirituous liquor.

10 (b) Distressed Liquor. Distressed liquor shall be given to a public or private hospital for medicinal purposes only or
11 destroyed and the destruction witnessed by the manager, or ~~his designee and a distiller representative~~the manager's
12 designee in accordance with this Paragraph. The local board shall notify the distiller, or a representative of the distiller,
13 in writing of the intent to destroy the distressed liquor, and obtain the distiller's, or a representative of the disiller's,
14 written approval to destroy the distressed liquor. The distiller, or a representative of the distiller, shall be given an
15 opportunity to:

- 16 (1) be present in person or by video conference at the destruction, or
17 (2) request proof of destruction by photographs or video recordings showing the distressed liquor before
18 and after the destruction.

19 A Destruction of Unsalable Merchandise Report shall be completed and signed by the witnessing parties. The report
20 shall contain the name and title of the distiller, or representative of the distiller, who provided written approval to
21 destroy the distressed liquor and the date the approval to destroy was given. A written or electronic copy of the report
22 shall be sent to the distiller and a written or electronic copy shall be sent quarterly to the Commission. The original
23 shall be retained by the local board for a period of three years.

24 (c) No sales of alcoholic beverages shall be made to employees, board members or other retail customers on credit.
25 This does not prohibit purchases made by the use of credit cards.

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27 *History Note: Authority G.S. 18B-100; 18B-207; 18B-806; 18B-807; S.L. 2018-100, Sec. 2;*

28 *Eff. January 1, 1982;*

29 *Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;*

30 *Transferred and Recodified from 04 NCAC 02R .1701 Eff. August 1, 2015;*

31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22,*
32 *2015.*